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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,264	09/12/2003	Geoff Allen	14334.0002	7787
27611	7590	02/16/2011	EXAMINER	
HUGHES HUBBARD & REED LLP			HUSSAIN, FARRUKH	
ONE BATTERY PARK PLAZA			ART UNIT	
NEW YORK, NY 10004			PAPER NUMBER	
			2444	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@hugheshubbard.com

### Office Action Summary

**Application No.**

10/661,264

**Applicant(s)**

ALLEN ET AL.

**Examiner**

FARRUKH HUSSAIN

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2444

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 December 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) 3-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-912)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 01/26/2004
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This application has been examined. Claims 1-2 are pending.

#### ***Election/Restrictions***

2. Applicant's election without traverse of Group 1 (Claims 1 and 2) in the reply filed on 12/07/2010 is acknowledged.

#### ***Claim Objections***

3. Claim 1 is objected to because of the following informalities:

The claim 1 recites "one or more "worker" processes" The use of quotation in the claim makes the claim indefinite. The examiner would like to suggest applicants to remove the quotation from the claim.

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation "a plurality of high-level control systems" in line 1. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**5. Claims 1-2 are rejected under 35 U.S.C. 101 because they are directed to non-statutory subject matter.**

6. With respect to the claim 1, the claim recites A system for real-time command and control of a distributed processing system, comprising:

- a high-level control system;
- one or more local control systems; and
- one or more "worker" processes under the control of each such local control system; wherein,
  - a task-independent representation is used to pass commands from said high-level control system to said worker processes;
  - each local control system is interposed to receive the commands from said high level control system, forward the commands to the worker processes that said local control system is in charge of, and report the status of said worker processes that it is in charge of to said high-level control system; and
  - said worker processes are adapted to accept such commands, translate such commands to a task-specific representation, and report to the local control system in charge of said worker process the status of

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execution of the commands.

The examiner would like to state that the system does not have any hardware. The examiner would like to further state that there is no evidence in the specification that a high-level control system, one or more local control system or one or more "worker" is hardware.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

**7. Claims 1-2 are rejected under 35 U.S.C. 102(a) as being anticipated by Hendricks et al. (Hendricks) (U.S. 6,160,989).**

8. With respect to the claim 1, Hendricks reference teaches A system for real-time command and control of a distributed processing system, comprising:

- a high-level control system (*see column 3, lines 40-56, The network controller (a high-level control system) is the central component that provides monitoring and control of set top terminals*);
- one or more local control systems (*see column 8, lines 1-20, The subscriber interface is a device with buttons located on the set top terminal 220*)

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(local control system, the examiner would like to state that set top terminal has button to control video signals) *or on a portable remote control 900*); and

- one or more "worker" processes under the control of each such local control system (*see column 4, lines 41-60, A set top terminal data gathering routine (worker) allows the network controller to schedule and perform polling of all set top terminals operating in the system.*); wherein,

- a task-independent representation is used to pass commands from said high-level control system to said worker processes (*see column 4, lines 33-42, The network controller (high-level control system) makes use of a number of software routines (worker processes) that assist the network controller to perform its major functions (a task-independent representation) and see column 26, lines 44-53 This control includes issuing commands to the set top terminals 220.*);

- each local control system is interposed to receive the commands from said high level control system, forward the commands to the worker processes that said local control system is in charge of (*see column 4, lines 41-60, A set top terminal (local control system) data gathering routine (worker) allows the network controller to schedule and perform polling of all set top terminals operating in the system.*), and report the status of said worker processes that it is in charge of to said high-level control system (*see column 4, lines 41-60, The software also provides the network controller with a means of processing status reports received from set top terminals in response to polling requests.*); and

- said worker processes are adapted to accept such commands (*see column 4, lines 33-42, The network controller (high-level control system) makes use of a number of software routines (worker processes) that assist the network controller to perform its major functions*), translate such commands to a task-specific representation (*see column 4, lines 34-60, One of the major routines assists the network controller to modify (translate) the program control information so that changes and additions in programming and advertisements (task-specific representation) can be accommodated*), and report to the local control system in charge of said worker process the status of execution of the commands (*see column 4, lines 41-60, The software also provides the network controller with a means of processing status reports received from set top terminals in response to polling requests.*).

9. With respect to the claim 2, Hendricks further teaches wherein a job description describes the processing to be performed (*see column 18, lines 1-16, provides data on the scheduling and description of programs.*), portions of said job description are assigned for processing by different high-level control systems (*see column 11, lines 20-36, selection control will take place only at the cable headend 208 by the local cable company and its decentralized network controllers 214 (different high-level control systems)*), each of said high-level control systems having the ability to take over processing for any of the other of said high-level control systems that might fail, and can be configured to take over said processing automatically (*see column 4, lines 1-16, the network controller*

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*monitors, among other things, automatic poll-back responses from the set top terminals remotely located at each subscribers' home).*

### **Conclusion**

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. US 6,141,691 by Frink et al. discloses Apparatus and method for controlling transfer of data between and processing of data by interconnected data processing elements.

b. US 6,072,830 by Proctor discloses Method for generating a compressed video signal.

c. US 6,353,459 B1 by Yeh et al. discloses Method and apparatus for down conversion of video data.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FARRUKH HUSSAIN whose telephone number is (571)270-5652. The examiner can normally be reached on Monday-Thursday, Alt. Friday, 7:30 A.M-5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/F. H./  
Examiner, Art Unit 2444  
02/09/2011

/RANODHI N SERRAO/  
Primary Examiner, Art Unit 2444